

REMARKS

Claims 1-3, 5-26, and 28-50 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the remarks contained herein.

REJECTION UNDER 35 U.S.C. § 102

Claims 1 and 24 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over White U.S. Patent Publication No. 2001/0027561. This rejection is respectfully traversed.

Applicants respectfully assert that the Examiner has misapplied Claim 1 to the reference.

The Examiner incorrectly asserts that the entertainment head end 12 meets the language of the claimed playback control device. Applicants respectfully disagree. The playback control device in U.S. Patent Publication No. 2001/0027561 would correspond to the client 14. This is the device that controls playback in U.S. Patent Publication No. 2001/0027561.

While Applicants believe that Claim 1 as originally filed clearly distinguishes over U.S. Patent Publication No. 2001/0027561, Applicants have clarified Claim 1 to expedite prosecution. Applicant reserves the right to file the original claims as filed in one or more continuing applications.

As amended, the playback control device described in the specification is **located at a playback location**. The head end 12 described in U.S. Patent Publication

No. 2001/0027561 is located remotely from the playback location. Therefore, the head end 12 can no longer correspond to the claimed playback control device.

The only device in U.S. Patent Publication No. 2001/0027561 that is located at the playback location is the client 14. The client 14 does not store a continuous play program. As described in the specification, the continuous play program refers to a program that allows user arrangement of multiple media selections that are played back in a continuous play fashion. Examples provided in the specification show the continuous play program allowing the arrangement of multiple music selections or other media selections that are played back in a continuous fashion without the need for further user control (i.e. user selection and user starting of the selection).

While U.S. Patent Publication No. 2001/0027561 allows the selection of a SINGLE video, music or other media selection, it does not create a continuous play program that plays back multiple selections in a continuous play fashion without the need for further user control. In other words, U.S. Patent Publication No. 2001/0027561 does not appear to allow selection of multiple media selections for continuous playback. Each selection in U.S. Patent Publication No. 2001/0027561 requires user selection and initiation. Further information relating to the term "continuous play program" can be found in the specification, for example on page 7 at line 1-11 and other portions. Therefore, U.S. Patent Publication No. 2001/0027561 does not have a continuous play program as recited in Claim 1.

None of the other devices described in U.S. Patent Publication No. 2001/0027561 appear to show, teach or suggest creating a continuous play program.

Claim 1 also recites a computer that is independent from the playback control device and that communicates via the distributed communications system, wherein the computer includes a user interface that allows a system manager to access the web server via the distributed communications system to alter the continuous play program for the playback control device.

The Examiner alleges that proxy server 24 meets the language relating to the computer. There is no discussion that the proxy server 24 has a user interface that allows a system manager to alter the continuous play program. In U.S. Patent Publication No. 2001/0027561, the client 14 is the only user interface that allows a user to change media delivery. Furthermore, the client 14 does not appear to allow alteration of a continuous play program.

Therefore, Claims 1 and 24 are allowable for at least these reasons. Claims 2-3, 5-23, 25, 26, and 28-50 are directly or indirectly dependent upon Claim 1 and are allowable for at least similar reasons.

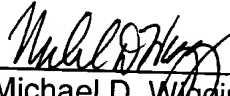
As this is the fourth Office Action in the application, Applicant encourages the Examiner to contact Applicants' representatives to resolve any further questions raised by this amendment.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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